S.B. CRIMINAL REVISION PETITION NO.973/2006.

(ARUN KUMAR VS. STATE OF RAJASTHAN)

DATE OF ORDER : 06.12.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. N.K. Bohra for the petitioner.
Mr. V.R. Mehta, Public Prosecutor.

By an order dated 04.06.1999, the trial court while accepting an application under Section 452 Cr.P.C. Ordered for releasing of a Jeep (Maruty Zypsy) provided the applicant furnishes a Fixed Deposit Receipt (FDR) for the amount of Rs.1,00,000/-. Such FDR was accordingly submitted and on its maturity, an application was filed by the petitioner to permit him to get the FDR encashed. The petitioner was also ready to furnish a new FDR for the amount of Rs.1,00,000. The trial court by its order dated 08.07.2005 rejected the application and the appeal preferred giving challenge to the order dated 08.07.2005 also came to be rejected by the order dated 10.08.2005 with a direction to get the FDR concerned renewed. Aggrieved by the order aforesaid, this revision petition is preferred.

The contention of counsel for the petitioner is that the FDR by order dated 04.06.1999 was demanded against release of the Jeep by determining its value then existing. It is also stated that by flux of time, value of the Jeep has been depreciated, as such, there was no reason to keep the FDR with higher value in custody of the Court. The petitioner is ready and willing to furnish a new FDR by getting the matured FDR encashed.

I have examined the orders impugned and also the other record available.

It is not in dispute that the FDR for the amount of Rs.1,00,000/- was demanded under the order dated 04.06.1999 against the Jeep, that was released while accepting the application under Section 452 Cr.P.C. The amount aforesaid was treated as an adequate security by the court to release the Jeep, that was said to be used in commission of the offence. The petitioner is ready and willing to furnish a fresh FDR for the same amount, then there is no need to detain matured value of the FDR that was executed in pursuant to the order dated 04.06.1999. I am in absolute agreement with the contention advanced that by flux of time, value of the Jeep in question must have been depreciated, as such, retention of FDR for the amount of Rs.1,00,000/- only is sufficient.

In view of the reason above, this revision petition deserves acceptance and therefore, the same is allowed. The order dated 08.07.2005 pssed by learned Judicial Magistrate, Jodhpur City in criminal case No.352/2000 and the order dated 10.08.2005 passed by learned Sessions Judge No.2, Jodhpur in appeal No.47/2005 are quashed. The application preferred by the petitioner for getting the FDR that was furnished in pursuant to the order dated 04.06.1999 is allowed. The trial court is directed to release the FDR concerned subject the condition the petitioner submits a fresh FDR for the amount of Rs.1,00,000/-.

(GOVIND MATHUR)J.

Anil/